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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,799	01/02/2004	Bradley R. Corral	082669045008	1828
28104	7590	06/14/2004	EXAMINER	
JONES DAY 77 WEST WACKER CHICAGO, IL 60601-1692			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/750,799	Applicant(s) CORRAL ET AL.	
	Examiner Paul Durand	Art Unit 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/8/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (US 4,625,635) in view of Cleine et al (US 5,282,347).

In regard to claim 1, Lewis discloses the invention substantially as claimed including a banding system comprised of supports 26 and 30, strapping machine in the form of feed mechanism 34 and 34a, which feed the banding material into guide elements in the form of tracks 40, which are movable from a first position where it is engaged with the band 36 and a second position, where it is disengaged from the band (see Figs.1-3, C1,L43-63 and C2,L29-51). What Lewis does not disclose is the use of a delivering mechanism that transports the load to be banded. However, Cleine teaches that it is old and well known in the art of banding to provide a trolley 44, which rides on rails and is used to transport load 46 to a banding machine for the purpose of efficiently transporting and wrapping a load (see Figs. 1,4 and C4,L41-46). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the banding machine of Lewis with the delivery mechanism of Cleine for the purpose of efficiently transporting and wrapping a load.

In regard to claim 2, Lewis discloses the invention substantially as claimed including a guide element comprised of track 40 that is "C" shaped (see Figs 1 and 2).

In regard to claim 3, Lewis discloses the invention substantially as claimed including a pair of spring biased jaws 42 (see Fig. 4).

In regard to claims 4 and 5, the modified invention of Lewis discloses the invention substantially as claimed including a rail operated delivery system. What the modified invention of Lewis does not disclose is the use of a sprocket and chain conveyor to transport the load to and from the banding machine. However, the examiner takes Official Notice that it is old and well known in the art of conveying to provide a sprocket and chain operated conveyor as an alternative means to convey a product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified banding machine of Lewis with the delivery mechanism comprised of a sprocket and chain for the purpose of transporting a product

In regard to claim 6, Lewis discloses the invention substantially as claimed including a band 36, which is dispensed and retrieved horizontally from the banding area (see Figs. 1 and 2).

3. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Cleine et al as applied to claims 1-4 and in further view of Mitanihara et al (US 4,836,873).

The modified invention of Lewis discloses the invention substantially as claimed as applied to claim 1 above except for the use of a heat sealing mechanism to seal the

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band together. However, Mitanihara teaches that it is old and well known in the art of banding to provide a heating mechanism 16, which heat seals the band for the purpose of reducing material banding costs by using plastic banding material (see Fig. 5 and CC3,L6-19). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified banding machine of Lewis with the heats sealing mechanism as taught by Mitanihara for the purpose of reducing material banding costs by using plastic banding material.

Further regarding claim 8, the modified invention of Lewis discloses the invention substantially as claimed including a rail operated delivery system. What the modified invention of Lewis does not disclose is the use of a sprocket and chain conveyor to transport the load to and from the banding machine. However, the examiner takes Official Notice that it is old and well known in the art of conveying to provide a sprocket and chain operated conveyor as an alternative means to convey a product. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified banding machine of Lewis with the delivery mechanism comprised of a sprocket and chain for the purpose of transporting a product.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Neitzel, Bricmont, Cleine, Lai and Kimmerle have been cited to show devices having similar structure..

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
June 8, 2004



SCOTT A. SMITH  
PRIMARY EXAMINER